



MINUTES

MARCH 2022 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Waylon Brown, Chair	Representative Megan Jones, Vice Chair
Senator Julian B. Garrett	Representative Mike Boussetot
Senator Jesse Green	Representative Amy Nielsen
Senator Robert Hogg [by teleconference]	Representative Mike Sexton
Senator Pam Jochum	

EX OFFICIO, NONVOTING MEMBER: Michael Boal, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Kate O'Connor, Legal Counsel, 515.281.6329

BULLETINS NEEDED FOR THIS MEETING: 2/9/22, 2/23/22

Procedural Business

Senator Brown convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 8:45 a.m. on Monday, March 7, 2022, in Room 116, State Capitol, Des Moines, Iowa. Video of the meeting has been posted here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. Mr. Ewing discussed procedures for meeting participation in Room 116. The minutes of the February 4 and 15, 2022, meetings were approved. The next meeting was scheduled for April 4, 2022. The meeting was adjourned at 10:25 a.m.

Fiscal Overview

Mr. Adam Broich, Fiscal Legislative Analyst, presented the LSA fiscal report.

HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg

ARC 6195C (AF), Mental Health and Disability Services Region Incentive Fund—Application, Approval, Reporting, Rules 25.11, 25.22
No discussion on ARC 6195C.

ARC 6206C (NOIA), Integrated Health Homes; Chronic Health Homes, Chs. 77-79

Committee members asked for more information about the results of the federal audit that prompted the rulemaking. Ms. Freudenberg responded that the audit found a severe lack of documentation and the department was fined \$40 million, although the department's erroneous payments totaled more than that.

No action taken on ARC 6206C.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

ARC 6209C (NOIA), Child Care Assistance—Fee Schedule, Income Guidelines, Rules 170.2(1)“a,” 170.4
No discussion on ARC 6209C.

ARC 6211C (NOIA), Community Mental Health Centers, Ch. 24
No discussion on ARC 6211C.

ECONOMIC DEVELOPMENT AUTHORITY

Representing the agency: Lisa Connell

ARC 6188C (AF), High Quality Jobs Program, Rules 68.1-68.5, 173.1(1), 174.2(1), 187.5(4)“e,” 188.2, 188.4,
188.5
No discussion on ARC 6188C.

ARC 6189C (AF), Aggregate Tax Credit Limit for Certain Economic Development Programs, Rules 76.4(3),
76.5, 76.6, 76.8
No discussion on ARC 6189C.

ARC 6202C (NOIA), Economic Development Programs—Funding, Rules 7.6(1), 42.2(2), 42.3(1)“b,” 81.3(3),
220.4(1)“b,” 221.2, 221.4(1)“c”
No discussion on ARC 6202C.

ARC 6203C (NOIA), Removal of Discontinued Programs, Chs. 9, 11, 25, 28 to 30, 33, 53, 57, 58, 61 to 64,
67, 69, 74, 80, 103, 107, 109, 111, 311 to 314, 402
No discussion on ARC 6203C.

IOWA FINANCE AUTHORITY

Representing the agency: Kristin Hanks-Bents

ARC 6167C (FEAN), Beginning Farmer Tax Credit Program, Rules 44.2, 44.6
No discussion on ARC 6167C.

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes, Janell Brandhorst

ARC 6182C (NOIA), High School Programs; Flexible Student and School Support Program; Accountability
Framework, Ch. 12
No discussion on ARC 6182C.

ARC 6183C (NOIA), Standards for Teacher Intern Preparation Programs, Rules 77.8(5)“a,” 77.10(7), 77.11(2)
No discussion on ARC 6183C.

ARC 6184C (NOIA), Open Enrollment—Criteria for Failure to Reasonably Respond to a Student’s Failure to
Meet Academic Standards, Rule 17.5(3)
Mr. Phil Jeneary, speaking on behalf of the Iowa Association of School Boards, stated that the rules
should include more detail on how failure to meet student growth will be measured over time.
No action taken on ARC 6184C.

ARC 6185C (NOIA), Supplementary Weighting Plan for Operational Function Sharing—Special Education
Director, Rule 97.7(10)“c”
No discussion on ARC 6185C.

INSPECTIONS AND APPEALS DEPARTMENT

Representing the agency: Ashleigh Hackel

ARC 6214C (NOIA), Social and Charitable Gambling—Responsible Party, Raffles, Rules 100.1, 100.3 (7), 100.16

No discussion on ARC 6214C.

ARC 6176C (NOIA), Administrative Electronic Document Management System, Ch. 16

No discussion on ARC 6176C.

RACING AND GAMING COMMISSION

Representing the agency: Brian Ohorilko

ARC 6169C (AF), Gambling Games Taxes and Fees; Problem Gambling; Risk Assessment; Vendor Licenses; Trainer and Assistant Trainer Licenses; Interstate Simulcasting; Advance Deposit Wagering; Sports Wagering; Fantasy Sports; Coupled Entries; Reserves; Account Operation, Chs. 5, 6, 8, 10, 11, 13, 14

No discussion on ARC 6169C.

PROFESSIONAL LICENSURE DIVISION

Representing the agency: Tony Alden

ARC 6180C (NOIA), Respiratory Care Practitioners and Polysomnographic Technologists — Polysomnography Licensure Fees, Rule 5.17

Mr. Brian Butters, speaking on behalf of the Iowa Sleep Society, stated that the board's recent fee decreases indicate that the board can support itself, and he did not see why the polysomnographer licensing fee should be four times higher than the licensing fee for a regular respiratory therapist.

No action taken on ARC 6180C.

ARC 6187C (AF), Chiropractic Physician Preceptors, Rule 42.5(1)

No discussion on ARC 6187C.

DENTAL BOARD

Representing the agency: Tiffany Allison

ARC 6210C (NOIA), Licensure, Registration, or Qualification—Reinstatement, Fees, Chs. 1, 14, 15, 25

No discussion on ARC 6210C.

NURSING BOARD

Representing the agency: Kathy Weinberg

ARC 6196C (AF), Administrative and Regulatory Authority, Ch. 1

No discussion on ARC 6196C.

ARC 6197C (AF), Licensure to Practice—Registered Nurse/Licensed Practical Nurse, Ch. 3

No discussion on ARC 6197C.

ARC 6198C (AF), Discipline, Ch. 4

No discussion on ARC 6198C.

ARC 6205C (NOIA), Telehealth—Standards of Practice for Advanced Registered Nurse Practitioners, Rules 7.1, 7.9

No discussion on ARC 6205C.

ARC 6208C (NOIA), Telehealth—Standards of Practice for Registered Nurses and Licensed Practical Nurses, Rules 6.1, 6.4
No discussion on ARC 6208C.

PHARMACY BOARD

Representing the agency: Sue Mears

ARC 6174C (AF), Collaborative Pharmacy Practice, Rule 39.13
No discussion on ARC 6174C.

ARC 6178C (NOIA), Veterinary Compounded Preparations for Office Use — Dispensing to Owner of Veterinary Patient to Treat Immediate Medical Need, Rules 20.2, 20.15
No discussion on ARC 6178C.

ARC 6179C (ANOIA), Security; Delegation of Dispensing; Controlled Substances, Rules 6.7(5), 8.3(3)“e,” 10.14(2), 10.18(4), 10.19, 10.20, 10.21(5)
No discussion on ARC 6179C.

REGENTS BOARD

Representing the agency: Aimee Claeys

ARC 6181C (NOIA), Standardized Tests; Regent Admission Index (RAI), Ch. 1
No discussion on ARC 6181C.

TRANSPORTATION DEPARTMENT

Representing the agency: Sara Siedsma

ARC 6168C (AF), Commercial Driver’s License Skills Test, Rules 607.2(1), 607.28, 607.30(2)“a”
No discussion on ARC 6168C.

ARC 6175C (NOIA), Vehicle Registration and Certificate of Title, Ch. 400
No discussion on ARC 6175C.

ARC 6200C (NOIA), Emergency Contact Information, Rules 601.3, 630.2(2)
No discussion on ARC 6200C.

ARC 6207C (NOIA), Commercial Driver Licensing; Adoption by Reference of Federal Regulations, Rules 520.1(1), 529.1, 605.25(8)“a,” 607.10(1)“d,” 607.16(2), 607.31
No discussion on ARC 6207C.

WORKFORCE DEVELOPMENT DEPARTMENT

Representing the agency: Jeffrey Koncsol

ARC 6201C (NOIA), Unemployment Insurance Benefits, Rule 24.22(3)“c”
Committee members asked what the difference is between a high-skilled worker and any other worker. Mr. Koncsol was unsure, but said he would provide the committee with additional information later. He explained the term “high-skilled worker” is from the Iowa Code. Members asked if the rule covers most construction workers, and he agreed that was the intent of the underlying legislation. Members asked if the department is able to provide more clarification of the rule language, and he explained that the rule language is based on statutory language, and the department cannot rewrite a statute.
No action taken on ARC 6201C.

LABOR SERVICES DIVISION

Representing the agency: Lanny Zieman

ARC 6173C (NOIA), Asbestos Removal—Ten-Day Notices, Rule 155.5
No discussion on ARC 6173C.

ARC 6177C (NOIA), Community Right to Know, Chs. 110, 130, 140
No discussion on ARC 6177C.

ARC 6204C (NOIA), Penalties for Occupational Safety and Health Citations, Rule 3.11(1)
No discussion on ARC 6204C.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Representing the agency: Colin Tadlock

ARC 6216C (AF), Weights and Measures, Ch. 85
No discussion on ARC 6216C.

ARC 6217C (AF), Farm-to-School Fund, Ch. 51
No discussion on ARC 6217C.

ARC 6213C (AF), Record-Keeping—Exemption for Tropical and Ornamental Fish, Rule 67.6
No discussion on ARC 6213C.

VETERINARY MEDICINE BOARD

Representing the agency: Colin Tadlock, Dr. Dewayne Rahe

ARC 6171C (AF), Veterinarian/Client/Patient Relationship (VCPR)—Physical Examination, Rule 12.1(1)“b”
Mr. Eldon McAfee, speaking on behalf of the Iowa Pork Producers Association (IPPA), explained that IPPA and the Iowa Farm Bureau Federation had submitted comments to the board on the noticed language, and their concerns had not been addressed. He stated that setting a definite required time period for a VCPR would negatively affect IPPA facilities and that the professional judgment of veterinarians to establish such relationships should be respected. He also stated the rule does not properly address specialists and telemedicine. He sought a 70-day delay on the rulemaking.

Committee members expressed concern regarding trucks full of healthy pigs being delivered along with cases of antibiotics to be dispensed by persons who are not veterinarians and indicated the rulemaking would mitigate such scenarios. Mr. McAfee stated that IPPA does not support such scenarios and that antibiotics should be prescribed by a veterinarian. Members urged IPPA and other groups to work with the board to resolve their differences. Members stated that currently, smaller pork producers find it necessary to have relationships with veterinarians while large producers receive cases of antibiotics without such relationships. Mr. McAfee responded that IPPA will work with the board to resolve the matter.

Dr. Rahe explained that the board had worked on the rulemaking for a year and was unanimously in favor of it. He stated a 70-day delay would not change the board’s position. He noted that the rulemaking applies to all species of animals and described various examples of the conduct the rulemaking is intended to address. Examples included medicine being provided to puppy mills and corporate swine operations without any VCPR, medicine provided to a cattle operation that could not be used on cattle, and possible outbreaks of African Swine Fever. He expressed surprise that IPPA and the Iowa Farm Bureau Federation would oppose the rulemaking. He stated that the Iowa Veterinary Medicine Association supports the rulemaking and noted most veterinarians already seem to be complying with the 12-month visitation requirement in the rulemaking. He cited Pipestone Veterinary Services as an entity that handles VCPRs well.

Committee members asked if a shortage of veterinarians in Iowa was part of the problem and asked how many veterinarians and veterinary students the state has. Dr. Rahe explained that the veterinary

profession on the whole has shifted away from large animal work and that there is a shortage of large animal veterinarians. He suggested that if compensation of large animal veterinarians was more competitive, the shortage could be mitigated. He asserted that for some corporations, it is more cost-effective to employ one person to prescribe large quantities of medications via computer than to employ enough veterinarians to maintain adequate VCPRs.

Committee members asked Dr. Rahe to comment on arguments they received in opposition to the rulemaking that the rulemaking would harm small pork producers and impose unnecessary costs. He stated that a small producer only needs a VCPR if they use prescription products. He further stated that small pork producers often have veterinarians visit more than once every 12 months currently.

Committee members expressed agreement with the board that annual visits are sufficient to establish a VCPR and would be workable for small pork producers. Members expressed concern regarding large producers receiving significant quantities of prescriptions along with trucks of pigs as well as concern that interested stakeholders had not engaged with the rulemaking process for this rulemaking sooner. Members urged affected stakeholders to work with the board in good faith to resolve any outstanding issues.

70-Day Delay

A motion for a 70-day delay on ARC 6171C carried on a 7-1 roll call vote.

ARC 6212C (AF), Principles of Veterinary Medical Ethics, Rule 10.6

Discussion centered on language encouraging veterinarians to participate in the political process. Committee members stated such language is unusual and asked why it was included and if there was a precedent for a licensing board to include such language in its rules. Dr. Rahe and Mr. Tadlock explained that the language was based on language from the American Veterinary Medical Association (AVMA), which was mandatory, using the word “shall,” but the board decided to only encourage veterinarians to become involved in the political process instead. They indicated that they did not know of any other licensing board that has adopted similar language, and that the board is not required to adopt the AVMA standards.

Other committee members stated that it is common for licensed professions to have a lobbying effort at the General Assembly, that other licensing boards may have similar language, that the language is not mandatory, and that the language was not problematic. Members suggested a special review of the rule could be considered in the future.

No action taken on ARC 6212C.